MEMORIAL

OF THE

State Border Claims Commission

OF

PENNSYLVANIA,

TO THE

Senate and House of Representatives of the United States of America, in Congress Assembled, in favor of the Passage of House Bill No. 750, entitled "A Bill to Authorize the Payment of Damages Sustained by Citizens of the State of Pennsylvania from Union and Confederate Troops during the late War as Adjudicated and Liquidated by the State of Pennsylvania."

HARRISBURG, PA.:
EDWIN K. MEYERS, STATE PRINTER.
1890.

VIRTUE
LIBERTY AND
INDEPENDENCE

STATE BORDER CLAIMS COMMISSION OF PENNSYLVANIA.

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PENNSYLVANIA
STATE LIBRARY

MEMORIAL.

To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled:

We, the subscribers, a commission composed of citizens of the Commonwealth of Pennsylvania, duly created under the laws of said commonwealth, are charged with the prosecution and collection of certain claims for losses sustained by citizens of said commonwealth whose property was damaged or appropriated for the public service in the late war for the preservation of the Union, which said claims have been duly adjudicated and liquidated by the said Commonwealth of Pennsylvania. To the end that your honorable bodies may be fully informed as to the nature of these claims, we beg leave to submit to your fair and impartial consideration the following:

Statement of the Case.

The counties of York, Adams, Cumberland, Franklin, Fulton, Bedford, Somerset and Perry, in the State of Pennsylvania, lie along or adjacent to "Mason and Dixon's Line." By the chance of their location these border counties were the territory, in the North, over which contending armies marched and pillaged. In the year 1861, the rendezvous of Northern troops; in the year 1862 the objective point of Southern cavalry raids; in 1863 the theater of the military operations which culminated in the battle of Gettysburg; the breakwater which stemmed the current of Southern onslaught, and checked its threatened overflow of a large section of country to the north and east. This position was assumed by the people, not from choice, but was forced upon them by an in-

evitable and overmastering necessity. Their property became not only the easy prey of the Confederate forces, but was appropriated without stint, whenever necessity demanded, and, in many cases when it did not, by the officers of the Federal army, to their own use and that of their men, in camp and on the march. By these appropriations, in form and out of form, the citizens of this section were despoiled of their property to the amount of hundreds and thousands of dollars. But the crisis of misfortune came to the largest number of citizens of this ill-fated territory, when, on the 30th of July, 1864, the town of Chambersburg, the county-seat of Franklin county, passed through its baptism of fire. It would be hard to overstate the overwhelming and crushing force of this calamity. It brought these unfortunate people, with bankruptcy staring them in the face, as humble suppliants to the doors of the Legislature of Pennsylvania, seeking financial assistance in their distressed and ruined condition. With its treasury already depleted by the heavy demands made upon it by the exigencies of the war, the state could render but little assistance to the despoiled people of the southern border. But, appreciating the severe losses of her citizens, and recognizing the justness of their claims, the Legislature then, and at different times thereafter, took steps, by the appointment of competent commissioners, to investigate and ascertain, by proof of disinterested witnesses, the extent and character of the losses, and the property taken, consumed and destroyed by the United States and Confederate troops.

The following is a brief of the several acts of Assembly of the State of Pennsylvania, under which the above-mentioned adjudications were made, and making appropriations for relief:

Act of the 16th of April, 1862 (P. L. 535), creating a board for the investigation of military claims.

Act of the 22d of April, 1863 (P. L. 529), providing a board for the investigation and adjudication of claims known as the "Anderson Cavalry Claims," and of damages done and property taken by Federal troops. Special session of 1864, emergency relief fund, $100,000, absolute gift.

Act of the 15th of February, 1866 (P. L. 43), appropriating

to the citizens of Chambersburg, for the burning of their town by Confederate troops, $500,000.

Act of 9th of April, 1868 (P. L. 74), An act adjudicating losses of citizens of border counties, and prescribing the nature and character of the proof required to establish said claims.

Act of May 27th, 1871 (P. L. 223), An act to provide for the ordinary expenses of the government, etc., authorizing certicates of loan to the value of $300,000 for the payment of the losses of the citizens of Chambersburg, *pro rata.*

Act of the 22d of May, 1871, (P. L. 272), which, being the final act consolidating all former legislation on the subject is given in full as follows:

AN ACT

To authorize the liquidation of damages sustained by citizens of Pennsylvania during the rebellion.

SECTION 1. *Be it enacted, etc.,* That the claims of the citizens of the counties of York, Cumberland, Adams, Franklin, Fulton, Bedford and Perry for extraordinary losses sustained during the rebellion, adjudicated under several acts of Assembly, approved 16th of April, 1862, the 22d of April, 1863, the 15th of February, 1866, and 9th of April, 1868, be subjected to a careful revision by two commissioners in the county of York, two in the county of Franklin, two in the county of Adams, two in the counties of Cumberland and Perry and two in the counties of Fulton and Bedford, to be appointed by the president judge of the courts of common pleas of said several counties, and the Governor shall appoint competent counsel to represent the government in the revision of said claims before the several commissioners, and said commissioners shall re-examine and readjudicate all of said claims, and may reject or diminish any now on file, as equity may require, but not increase the amount of any excepting the claim of the German Reformed church, represented by S. R. Fisher & Co., which shall be equitably adjusted; and any claims which may have been assigned, or transferred by the original claimant, the assignee or present owner of the same, shall be required to make satisfactory proof of the amount actually paid for the claim, and the amount so paid shall be awarded and no more, and if any owner of an assigned claim shall fail to make such proof satisfactorily the claim shall be rejected, and as said commissioners readjudicate said claim they shall endorse

their approval thereon, for the amount allowed, and return the claims to the Auditor General.

SECTION 2. The State shall issue to each claimant or to his or her or their proper representative a certificate or certificates to the amount allowed on each claim in the following form:

"COMMONWEALTH OF PENNSYLVANIA.

"*Certificate of Adjudicated Claim for War Damages.*

This is to certify that . . . . . has on file in the office of the Auditor General a duly approved and registered claim for the sum of $ . . . , as adjudicated under the act entitled 'An act to authorize the liquidation of damages sustained by citizens of Pennsylvania, during the late rebellion,' and payable only when said claims shall be paid by the United States Government.

"In testimony whereof we have hereunto set our hands and the seal of the state, this . . . day of . . . . . , A. D. 1871."

Which certificate shall be signed by the Governor and State Treasurer and countersigned by the Auditor General.

SECTION 3. It shall be the duty of the Governor of the state to demand the payment of said claims by the general government and also the amount heretofore paid by the state of said claims and to appoint such agents for the purpose as may be deemed necessary, and any appropriation made by Congress to said claims shall be wholly applied to the certificates authorized by the second section of this act as Congress may direct till the same shall be paid in full; *Provided*, That this act shall not be construed to make the state in anywise responsible for or on account of said certificate.

SECTION 4. That the commissioners and counsel authorized to be appointed by the first section of this act shall be paid $8.00 for each day, not exceeding sixty days, actually employed in pursuance of their appointment, and their compensation, together with the necessary expenses of the said certificates, shall be audited in the usual manner and be paid on the warrant of the Governor out of any money in the treasury not otherwise appropriated.

JAMES H. WEBB,
Speaker of the House of Representatives.

J. D. DAVIS,
Speaker of the Senate pro tem.

APPROVED—The 22d day of May, A. D. 1871.

JOHN W. GEARY.

The following schedule exhibits the claims adjudicated and filed under this act:

	Claims filed.	Claims allowed.
Adams,	$560,866 53	$489,438 99
Franklin,	871,931 44	846,033 30
Chambersburg,	1,641,092 74	1,625,435 55
Cumberland,	219,031 03	211,778 95
Bedford,	7,164 02	6,808 92
Fulton,	56,544 98	53,944 08
York,	231,294 68	214,366 15
Somerset,	120 00	120 00
	$3,588,065 42	$3,447,945 94

On the 31st of December, 1879, which was the day before the expiration of the time fixed by Congress for the filing of claims, the Auditor General of Pennsylvania filed in the office of the Quartermaster General, all of the claims filed and adjudicated under the above act.

At the last session of the Legislature of Pennsylvania, held in 1889, the following joint resolution was passed, and was duly approved by the Governor.

No. 15. In the House of Representatives, April 5, 1889.

WHEREAS, There are now on file in the Auditor General's office of this commonwealth a large number of claims of the citizens of the counties of York, Cumberland, Adams, Franklin, Fulton, Bedford and Perry, for extraordinary losses sustained during the rebellion, as adjudicated under the several acts of assembly, approved April 22, 1863, February 16, 1866, April 9, 1868, and May 22, 1871;

And whereas, The State of Pennsylvania has, through its legislative assembly, made three separate appropriations, aggregating $900,000, for the relief of that portion of these claimants residing in Chambersburg, which said sum or sums of money, was paid out of the State Treasury on account of said claims, and for which sum of money the state has not been reimbursed from any source;

And whereas, In the earlier days of the civil war the State of Pennsylvania had organized and equipped for state defense, at the expense of itself of over $3,000,000, a corps of troops, known as the Pennsylvania Reserve Corps, which splendid body of men were drawn off to engage in the defense of the general government, at a critical period in the life of

the nation, and was ever after, until the close of the war, retained there, thus rendering possible the destruction of the property upon which these claims are based; therefore, be it

Resolved (if the Senate concur), That a joint commission comprising the Governor, the Attorney General, the Auditor General of the Commonwealth, the President *pro tempore* of the Senate, and two members thereof, to be appointed by the President *pro tempore*, the Speaker of the House, three members thereof, to be appointed by the Speaker, together with Thad. M. Mahon and Benjamin M. Nead, special war claims agents of Pennsylvania, be constituted, whose duty it shall be to go to Washington at the opening of the next session of Congress, or as soon thereafter as practicable, and press these claims upon the attention of Congress and demand their payment by the General Government. The members of said commission shall serve without any compensation, except for actual and necessary expenses, which shall be provided for in the general appropriation bill.

JOHN W. MORRISON,
Chief Clerk House of Representatives.

IN THE SENATE, *April 10, 1889.*

The foregoing resolution concurred in.

RUSSELL ERRETT,
Chief Clerk of the Senate.

APPROVED—The 11th day of April, A. D. 1889.

JAMES A. BEAVER.

It is under and by virtue of the above authority that your petititioners are before you now. They have prepared and there is now upon the calendars of your honorable bodies the following bill, known as H. R. Bill No. 750:

A BILL

To authorize the payment of damages sustained by citizens of the State of Pennsylvania from Union and Confederate troops during the late war, as adjudicated and liquidated by the State of Pennsylvania, under the provisions of an act of the general assembly of the said State of Pennsylvania, approved the twenty-second day of May, Anno Domini eighteen hundred and seventy-one.

WHEREAS, During the late war for the Union the following border counties of the State of Pennsylvania, to wit: Adams, Bedford, Cumberland, Franklin, Fulton, Perry, Somerset and York, were subject to invasion and raids by the Confederate troops and to the operations and occupancy of the Federal troops, and the citizens of said counties, by reason of the said

invasions, raids and operations, suffered great and extraordinary losses by the appropriation and destruction of their property by the troops of both armies;

And whereas, The citizens of said counties were faithful and obedient to the laws of the Union, and the state had answered and fully complied with all requisitions upon it and its people for the supply of troops, and all other requisitions made upon it and its people in furtherance of the prosecution of the said war of the Union, and by the Federal compact the United States was bound to protect the said State of Pennsylvania and its people against invasion;

And whereas, The General Government, in furtherance of its plans, and in support of its military operations, deemed it inadvisable to detach a sufficient force or forces from its armies for the purpose of furnishing such protection, and although the Government was informed of the emergency and was called upon to furnish the proper protection by the then Governor of the said commonwealth, and by reason of the failure of the Government to respond to or comply with said call, the territory of the said counties was open and exposed to invasion and incursions by the enemy;

And whereas, In the earlier days of the said war the State of Pennsylvania had organized and kept for state defense, at an expense to itself of over three millions of dollars, a corps of troops known as the Pennsylvania Reserve Corps, which splendid body of men was drawn off to engage in the defense of the General Government at a critical period, and was ever after, until the close of the war, retained as part of the general army of the Government operating in the field, which corps, if retained in the state service, might have successfully protected the citizens of the said border counties from the raids and incursions which occasioned the said losses;

And whereas, By the act of the general assembly of the said State of Pennsylvania, approved the twenty-second day of May, Anno Domini eighteen hundred and seventy-one, provision was made for an adjustment and adjudication of all claims for extraordinary losses sustained during the rebellion by citizens of the said counties, and a certificate was thereby authorized to be issued by the state to each claimant or to his or their proper representative, of the amount allowed, in form prescribed therein, which claim, so liquidated and adjusted was therein provided to be payable only when said claims shall be paid by the United States Government; and in pursuance of said act such adjudication and liquidation was made of said claims under the provisions thereof, and the same duly filed, as therein provided, with the Auditor General of the said State of Pennsylvania, a portion of which claims so filed with the Auditor General, were subsequently

filed in the Quartermaster General's office at Washington, and certificates for all said claims, in the form prescribed by the said act, were duly issued, which claims, so adjusted, liquidated and filed, and for which certificates were so issued, amount in the aggregate to the sum of three million four hundred and forty-seven thousand nine hundred and forty-five dollars and ninety-four cents; therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of three million four hundred and forty-seven thousand nine hundred and forty-five dollars and ninety-four cents be and the same is hereby appropriated out of any moneys in the Treasury of the United States not otherwise appropriated, and that the Secretary of the Treasury be, and is hereby, directed to draw his warrant upon the Treasurer of the United States for the payment of the said amount to the Governor of the State of Pennsylvania, which said sum shall be paid to the Governor aforesaid, upon his indorsement and presentation of said warrant, for the use of the citizens of the said enumerated counties whose claims have been adjudicated and are on file, as above recited, under the provision of the said act of the general assembly of Pennsylvania, approved the twenty-second day of May, Anno Domini eighteen hundred and seventy-one, to be paid over by the Governor, through the Auditor General, of said state, to the said claimants in payment of the claims as adjudicated and filed as aforesaid.

The legal grounds upon which it is claimed that the General Government is bound to compensate the State of Pennsylvania, for losses incurred by her citizens have been presented in another form, therefore no extended argument will be presented here, but, in conclusion, it is insisted upon that fidelity by the citizen to the government and protection to the citizen by the government are correlative duties. A sense of this protection is the bond which holds society together. Loosen the bond and society falls to pieces. No government, be it state or national, can purge itself of this obligation. The parent who neglects to provide for a child, unable to provide for itself, is compelled by law to discharge his parental duty. A government is the *parens patriæ*, and the true end of its administration is the safety and protection of the citizen, or the subordinate State, who is bound to be obedient to its commands. It is true the government cannot be sued; you cannot bring it into a judicial tribunal and

recover against it for neglect of duty, except by its own consent. But a just government will always do right and needs no compulsion. A binding obligation may exist without means of compulsion and without sanctions. Having failed in its duty of protection, it is bound by every principle of right and justice to make adequate compensation for the damages springing immediately from its neglect.

W. S. KIRKPATRICK,
THAD. M. MAHON,
BENJ. M. NEAD,

For the State Border Claims Commission of Penn'a.